

106TH CONGRESS
2D SESSION

S. 2554

To amend title XI of the Social Security Act to prohibit the display of an individual's social security number for commercial purposes without the consent of the individual.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2000

Mr. GREGG (for himself and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XI of the Social Security Act to prohibit the display of an individual's social security number for commercial purposes without the consent of the individual.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Amy Boyer’s Law”.

1 **SEC. 2. PROTECTING PRIVACY BY PROHIBITING DISPLAY**
 2 **OF THE SOCIAL SECURITY NUMBER TO THE**
 3 **GENERAL PUBLIC FOR COMMERCIAL PUR-**
 4 **POSES WITHOUT CONSENT.**

5 (a) IN GENERAL.—Part A of title XI of the Social
 6 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 7 ing at the end the following:

8 “PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL
 9 SECURITY NUMBER

10 “SEC. 1150A. (a) LIMITATION ON DISPLAY.—Except
 11 as otherwise provided in this section, no person may dis-
 12 play to the public any individual’s social security number,
 13 or any identifiable derivative of such number, without the
 14 affirmatively expressed consent, electronically or in writ-
 15 ing, of such individual.

16 “(b) PROHIBITION OF WRONGFUL USE AS PER-
 17 SONAL IDENTIFICATION NUMBER.—No person may obtain
 18 any individual’s social security number, or any identifiable
 19 derivative of such number, for purposes of locating or
 20 identifying an individual with the intent to physically in-
 21 jure, harm, or use the identity of the individual for illegal
 22 purposes.

23 “(c) PREREQUISITES FOR CONSENT.—In order for
 24 consent to exist under subsection (a), the person dis-
 25 playing, or seeking to display, an individual’s social secu-

1 rity number, or any identifiable derivative of such number,
2 shall—

3 “(1) inform the individual of the general pur-
4 poses for which the number will be utilized and the
5 types of persons to whom the number may be avail-
6 able; and

7 “(2) obtain affirmatively expressed consent elec-
8 tronically or in writing.

9 “(d) EXCEPTIONS.—Nothing in this section shall be
10 construed to—

11 “(1) prohibit any use of social security numbers
12 permitted or required under section 205(c)(2), sec-
13 tion 7(a)(2) of the Privacy Act of 1974 (5 U.S.C.
14 552a note; 88 Stat. 1909), or section 6109(d) of the
15 Internal Revenue Code of 1986;

16 “(2) modify, limit, or supersede the operation
17 of, or the conduct of any activity permitted under,
18 the Fair Credit Reporting Act (15 U.S.C. 1681 et
19 seq.) or title V of the Gramm-Leach-Bliley Act (15
20 U.S.C. 6801 et seq.);

21 “(3) except as set forth in subsection (b), pro-
22 hibit or limit the use of a social security number to
23 retrieve information about an individual without dis-
24 playing such number to the public;

1 “(4) prohibit or limit the use of the social secu-
 2 rity number for purposes of law enforcement, includ-
 3 ing investigation of fraud; or

4 “(5) prohibit or limit the use of a social secu-
 5 rity number obtained from a public record or docu-
 6 ment lawfully acquired from a governmental agency.

7 “(e) CIVIL ACTION IN UNITED STATES DISTRICT
 8 COURT; DAMAGES; ATTORNEYS FEES AND COSTS; REGU-
 9 LATORY COORDINATION.—

10 “(1) IN GENERAL.—Any individual aggrieved
 11 by any act of any person in violation of this section
 12 may bring a civil action in a United States district
 13 court to recover—

14 “(A) such preliminary and equitable relief
 15 as the court determines to be appropriate; and

16 “(B) the greater of—

17 “(i) actual damages;

18 “(ii) liquidated damages of \$2,500; or

19 “(iii) in the case of a violation that
 20 was willful and resulted in profit or mone-
 21 tary gain, liquidated damages of \$10,000.

22 “(2) ATTORNEY’S FEES AND COSTS.—In the
 23 case of a civil action brought under paragraph
 24 (1)(B)(iii) in which the aggrieved individual has sub-
 25 stantially prevailed, the court may assess against the

1 respondent a reasonable attorney's fee and other liti-
2 gation costs and expenses (including expert fees)
3 reasonably incurred.

4 “(3) STATUTE OF LIMITATIONS.—No action
5 may be commenced under this subsection more than
6 3 years after the date on which the violation was or
7 should reasonably have been discovered by the ag-
8 grieved individual.

9 “(4) NONEXCLUSIVE REMEDY.—The remedy
10 provided under this subsection shall be in addition to
11 any other lawful remedy available to the individual.

12 “(f) CIVIL MONEY PENALTIES.—

13 “(1) IN GENERAL.—Any person who the Com-
14 missioner of Social Security determines has violated
15 this section shall be subject, in addition to any other
16 penalties that may be prescribed by law, to—

17 “(A) a civil money penalty of not more
18 than \$5,000 for each such violation, and

19 “(B) a civil money penalty of not more
20 than \$50,000, if violations have occurred with
21 such frequency as to constitute a general busi-
22 ness practice.

23 “(2) DETERMINATION OF VIOLATIONS.— Any
24 willful violation committed contemporaneously with
25 respect to the social security numbers of 2 or more

1 individuals by means of mail, telecommunication, or
2 otherwise shall be treated as a separate violation
3 with respect to each such individual.

4 “(3) ENFORCEMENT PROCEDURES.—The provi-
5 sions of section 1128A (other than subsections (a),
6 (b), (f), (h), (i), (j), and (m), and the first sentence
7 of subsection (c)) and the provisions of subsections
8 (d) and (e) of section 205 shall apply to civil money
9 penalties under this subsection in the same manner
10 as such provisions apply to a penalty or proceeding
11 under section 1128A(a), except that, for purposes of
12 this paragraph, any reference in section 1128A to
13 the Secretary shall be deemed a reference to the
14 Commissioner of Social Security.

15 “(4) COORDINATION WITH CRIMINAL ENFORCE-
16 MENT.—The Commissioner of Social Security shall
17 take such actions as are necessary and appropriate
18 to assure proper coordination of the enforcement of
19 the provisions of this section with criminal enforce-
20 ment under section 1028 of title 18, United States
21 Code (relating to fraud and related activity in con-
22 nection with identification documents). The Commis-
23 sioner shall enter into cooperative arrangements with
24 the Federal Trade Commission under section 5 of
25 the Identity Theft and Assumption Deterrence Act

1 of 1998 (18 U.S.C. 1028 note) for purposes of
2 achieving such coordination.

3 “(g) LIMITATION ON REGULATION BY STATES.—No
4 requirement or prohibition may be imposed under the laws
5 of any State with respect to any subject matter regulated
6 under subsections (a) through (d).

7 “(h) DEFINITIONS.—In this section, the term ‘dis-
8 play to the general public’ means the intentional placing
9 of an individual’s social security number, or identifying
10 portion thereof, in a viewable manner on a web site that
11 is available to the general public or in material made avail-
12 able or sold to the general public.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) applies with respect to violations occurring
15 on and after the date which is 2 years after the date of
16 enactment of this Act.

○